

REMARKS

Reconsideration and allowance of the subject application in view of the foregoing amendments and the following remarks is respectfully requested.

Claims 1-43 are pending.

Claim 1 has been amended to conform to commonly accepted US Patent practice. New claims 42-43 have been added to secure an appropriate scope of protection to which applicants are believed entitled. Support for the subject matter of new claim 42 is believed to be found at at least page 10, lines 12-16. Support for the subject matter of new claim 43 is believed to be found at at least page 9, line 1 through page 14, line 29. Claims 16 and 28 have been amended to correct an antecedent basis issue.

Claims 1-6, 8, 9, 14-18, 20, 21, 23, 29-34, and 41 are patentable over *Shipp* (GB 2 367 714) in view of *Andersen* (US 6,122,740)

The rejection of claims 1-6, 8, 9, 14-18, 20, 21, 23, 29-34, and 41 under 35 USC 103(a) over *Shipp* in view of *Andersen* is hereby traversed. There are at least five reasons claim 1 is patentable over the combination of references and withdrawal of the rejection is respectfully requested.

Shipp fails to disclose “storing in a buffer data relating to requests which identify a destination host not in the record” as claimed in claim 1. The PTO-identified portion of *Shipp*, reproduced herein for ease of reference, states:

Holding them in temporary storage and notifying the addressee by email that an infected message has been intercepted and is being held for a period for their retrieval, should they wish, otherwise it will be deleted.

Shipp at page 12, lines 3-5.

First, the PTO-identified portion of *Shipp* appears to describe holding emails in temporary storage without identifying that the emails identify a destination host not in a record. *Shipp* appears to describe holding an intercepted, infected message and notifying the addressee of the held message. *Shipp* fails to identify that the intercepted, infected message identifies a destination host not in a record. For at least this reason, withdrawal of the rejection is respectfully requested.

Further, none of the “criteria by which emails may be assessed” to identify email viruses include requests identifying a destination host not in the record. *Shipp* at page 5, line 28, see also the criteria at pages 5, line 25 through page 6, line 7. For at least this reason, withdrawal of the rejection is respectfully requested.

Second, *Shipp* fails to disclose a record as claimed in claim 1 within which requests identifying a destination host are not found. *Shipp* does not appear to describe a record indicative of identities of hosts within the network to whom data has been sent. The PTO admits that *Shipp* fails to disclose establishing a record as claimed in claim 1. Without disclosure of such a record, Applicants fail to understand how *Shipp* can be asserted to disclose storing requests which identify destination hosts not in the record. For at least this reason, withdrawal of the rejection is respectfully requested.

The PTO admits that *Shipp* fails to disclose establishing a record, comparing, and transmitting all requests as claimed in claim 1.

Andersen fails to disclose “comparing (a) identities of destination hosts identified in requests to send data from the first host and (b) identities of destination hosts identified in the record” as claimed in claim 1. The PTO-identified portion of *Andersen*, reproduced herein for ease of reference, states:

The logging DLL then receives a request to access a host system, step 410, compares the host system to the locally stored access list, step 415, and checks whether the request conflicts with the access list, step 420.

Andersen at column 6, lines 56-59.

First, the PTO-identified portion of *Andersen* appears to describe a different element of the *Andersen* remote access logging system from the element described at column 5, lines 19-23. That is, the access list referred to at column 6, lines 56-59 does not appear to be the same as the log data referred to at column 5, lines 19-23. Further, *Andersen* appears to describe the access list as “a list of network identifiers which are not to be accessed by the user of the system” or “a list of words or phrases.” *Andersen* at column 6, lines 31-36. *Andersen* fails to disclose that the access list is the log data or vice versa. Thus, *Andersen* fails to disclose the comparing as claimed in claim 1. For at least this reason, withdrawal of the rejection is respectfully requested.

A prima facie case of obviousness has not been set forth with respect to *Shipp* and *Andersen*

The PTO asserts that a person of ordinary skill in the art at the time of the present invention would be motivated to combine *Andersen* with *Shipp* in order to identify patterns characteristic of a virus outbreak and take corrective action.

First, Applicants fail to understand the combination asserted by the PTO. That is, the PTO appears to be asserting, without any basis in either reference, the combination of an in-bound email filter mechanism as described in *Shipp* with an out-bound network access logging mechanism as described in *Andersen*. The mechanisms of *Shipp* and *Andersen* appear to be directed to different problem areas and were not likely to have been combined by persons of ordinary skill in the art. For at least this reason, withdrawal of the rejection is respectfully requested.

Second, combining *Andersen* with *Shipp* in the manner asserted by the PTO would appear to change the operation of the *Shipp* reference. That is, *Shipp*, upon detection of email traffic characteristic of a virus, performs one of three modifying operations on an infected email, as described at page 12, lines 1-9, i.e., disposing, holding, and disinfecting. None of the operations includes transmitting the request. Combining *Andersen* with *Shipp* would appear to enable the transmission of a message determined to be infected which would appear to conflict directly with the stopping action of *Shipp*. Thus, *Andersen* and *Shipp* are not believed to be combinable contrary to the PTO assertion thereof. For at least this reason, withdrawal of the rejection is respectfully requested.

In the alternative, even assuming *arguendo* the asserted combination of *Andersen* with *Shipp*, claim 1 remains patentable over the references because the combination would appear to add an out-bound logging mechanism to a system comprising an in-bound email filter mechanism without disclosing “storing in a buffer data relating to requests which identify a destination host not in the record” where the “record is at least indicative of identifies of hosts within the network to whom data has been sent by a first host.” For at least this additional reason, withdrawal of the rejection is respectfully requested.

Based on at least each of the foregoing reasons, claim 1 is patentable over *Shipp*, singly or in combination with *Andersen*, and the rejection is respectfully requested to be withdrawn.

Claims 2-6, 8, 9, 14-18, 20, 21, and 23 depend, *inter alia*, from claim 1, include further features, and are patentable over the asserted combination of references for at least the reasons advanced above with respect to claim 1. Withdrawal of the rejection is respectfully requested.

Claim 29 is patentable over the asserted combination of *Andersen* in view of *Shipp* for at least reasons similar to those advanced above with respect to claim 1 and the rejection is respectfully requested to be withdrawn.

Claims 30-34 and 41 depend, *inter alia*, from claim 29, include further features, and are patentable over the asserted combination of references for at least the reasons advanced above with respect to claim 29. Withdrawal of the rejection is respectfully requested.

The rejection of claims 7, 10-13, 19, 22, and 35-40 under 35 USC 103(a) as being unpatentable over *Shipp* in view of *Andersen* and variously, *Maher, III et al.* (US 7,058,974), *Ramanujan* (US 5,341,491), *Cunningham et al.* (EP 0 986 229), and *Anderson* (US 2002/0013858) are hereby traversed. None of *Maher*, *Ramanujan*, *Cunningham*, or *Anderson* appear to cure the above-noted deficiencies of the combination of *Andersen* and *Shipp*. For at least this reason, withdrawal of the rejection is respectfully requested.

Claim 43 recites a method of monitoring propagation of viruses within a network of hosts comprising establishing a record which is at least indicative of identities of destination hosts within the network to whom data has been sent by a first host; during a first time interval, comparing (a) identities of destination hosts identified in requests to send data from the first host and (b) identities of destination hosts identified in the record; transmitting all requests to send data; and storing in a buffer data to identify as such those requests which identify a destination host not in the record which is not disclosed or suggest by the applied references, singly or in combination.

Conclusion

All objections and rejections having been addressed, it is respectfully submitted that the present application should be in condition for allowance and a Notice to that effect is earnestly solicited.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 08-2025 and please credit any excess fees to such deposit account.

Respectfully submitted,

Matthew M. WILLIAMSON et al.



Randy A. Noranbrock
Registration No. 42,940
Telephone: (703) 684-1111

HEWLETT-PACKARD COMPANY

IP Administration
Legal Department, M/S 35
P.O. Box 272400
Fort Collins, CO 80528-9599
Facsimile: 281-926-7212
Date: **August 7, 2007**
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